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July 20, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich
From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains an update on the status of climate change legislation of County Interest.

Status of Climate Change Legislation of County Interest

Air Quality/Global Warming/Greenhouse Gas Emissions

AB 231 (Huffman), as amended on June 26, 2009, would require the California Air Resources Board to adopt a schedule of fees by March 30, 2010, pursuant to AB 32, the California Global Warming Solutions Act of 2006, to be paid by the sources of greenhouse gas emissions regulated under the Act, and require the revenues collected to be deposited in the Climate Protection Trust Fund created by the bill. All other compliance revenues collected pursuant to AB 32, including fines and penalties and funds currently being deposited into the existing Air Pollution Control Fund, would be required to be deposited into the Climate Protection Trust Fund for AB 32 implementation. It would also require that Federal funds earmarked for climate change programs and projects be deposited in the Trust Fund as well.

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AB 231 is supported by a host of entities, including the California Coastal Coalition, Californians Against Waste, Coalition for Clean Air, Environmental Defense Fund, Natural Resources Defense Council, Planning and Conservation League, and Los Angeles Conservation Corps. It is opposed by a host of entities, including the California Business Properties Association, California Chamber of Commerce, California Manufacturers and Technology Association, California Retailers Association, California Taxpayers' Association, National Federation of Independent Business, and Western States Petroleum Association. This measure is currently in the Senate Environmental Quality Committee awaiting a hearing date.

AB 1404 (DeLeon), as amended on June 30, 2009, would require the California Air Resources Board (CARB), if the CARB allows the use of market-based compliance mechanisms authorized under AB 32, to limit the use of compliance offsets, as defined, that meet specific criteria, to no more than 10 percent of the greenhouse gas emission reductions expected from market mechanisms during the compliance period. CARB would be required to apply the limit as a percentage of each regulated party's reported emissions in a compliance period and impose a fee pursuant to the fee authority provided in AB 32 for deposit into the fund to pay for expenses related to CARB's administration of the compliance offset program.

"Compliance offset" is defined as a quantified greenhouse gas emission reduction in a sector different than the sector regulated by a CARB adopted greenhouse gas emission limit for which a market-based compliance mechanism has been adopted that is used for specified compliance purposes.

If the CARB allows the use of market-based compliance mechanisms, the compliance offsets would have to be verified by an independent third-party verifier certified by the CARB, the offset would have to be entered into a tracking system and permanently retired, and the compliance offsets must meet greenhouse gas emission reduction requirements. In addition, CARB would be required to establish incentives or guidelines that prioritize compliance offsets that result in air quality benefits to communities disproportionately impacted by air quality, to disadvantaged communities, or offsets that result in co-benefits to public health and the environment. Furthermore, CARB would be required to establish a fee with revenues to be placed into the Air Pollution Control Fund to pay for expenses related to CARB administration of the compliance offset program. State General Fund moneys are prohibited from being spent for program administration.

AB 1404 is sponsored by the Union of Concerned Scientists, and supported by a host of entities and individuals, including the American Lung Association, California League of Conservation Voters, California Wind Energy Association, Coalition for Clean Air,

Natural Resources Defense Council, Planning and Conservation League, and Sierra Club. It is opposed by a host of entities, including the California Building Industry Association, California Chamber of Commerce, California Grocers Association, California Retailers Association, California Taxpayers Association, Sacramento Municipal Utility District, and the Western States Petroleum Association. This measure is currently in the Senate Appropriations Committee awaiting a hearing date.

AB 1405 (DeLeon), as amended on June 23, 2009, would establish the Community Benefits Fund (CBF) within the State Treasury and require at least 30 percent of the revenues generated by CARB pursuant to the implementation of AB 32 to be deposited in the CBF. These revenues, upon appropriation by the Legislature, are required to be spent on competitive grants for projects which reduce greenhouse gas emissions in the most disadvantaged and impacted communities in California, as determined by the CARB. The CARB would also be required to adopt a methodology to identify the most impacted and disadvantaged communities, using a specified process. In addition, the CARB, the California Energy Commission, and the State Department of Public Health would be required to jointly develop biennial plans for the use of funds in the CBF.

The methodology to identify the most impacted and disadvantaged communities must identify the areas within each air basin with the highest 10 percent of air pollution impacts, taking into account air pollution exposure and socio-economic indicators. Where variations within an air basin cannot be detected, the CARB must limit the identifying factors to only socio-economic indicators. Air pollution exposure indicators would be defined to include criteria and toxic pollutant levels, proximity to sources, and land use. Socio-economic indicators would include income and poverty levels, educational attainment, linguistic isolation, and vulnerability to air pollution impacts.

AB 1405 is jointly sponsored by the Center on Race, Poverty, and the Environment; Coalition for Clean Air Greenlining; and the National Association for the Advancement of Colored People. It is supported by a host of entities, including the American Lung Association of California, California Urban Forests Council, Environmental Defense Fund, Latino Coalition for a Healthy California, Mountains Recreation and Conservation Authority, The Trust for Public Land, and Community Action to Fight Asthma. It is opposed by a host of entities, including California Chamber of Commerce, American Council of Engineering, California Grocers Association, California Retailers Association, California Taxpayers Association, Southern California Edison, and California Manufacturers and Technology Association. This measure is currently in the Senate Appropriations Committee awaiting a hearing date.

AB 1530 (Skinner), as amended on April 20, 2009, would require CARB to adopt protocols for the evaluation, quantification, and verification of any greenhouse gas emission reduction measure that relies on electrical energy efficiency to ensure that the reductions comply with existing requirements, and require the CARB, in adopting these protocols, to consult with the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, and experts in the field of energy efficiency.

The Internal Services Department (ISD) indicates that they may be impacted by AB 1530 to the extent that County operations or organizations are required to report greenhouse gas emissions. ISD indicates that local government operations are not required to report greenhouse gas emissions data under AB 32. However, the County's co-generation plants would be required to report this data. ISD states the impact of AB 1530 on the department is unknown.

There is no registered support or opposition to AB 1530. This measure is currently in the Senate Environmental Quality Committee awaiting a hearing date.

Energy Efficiency/Renewables

AB 234 (Huffman), as amended on July 16, 2009, would require the California Energy Commission to administer energy funds allocated and received by the State pursuant to the Federal American Recovery and Reinvestment Act of 2009 (ARRA) and require all moneys received by the State pursuant to ARRA for energy-related activities, programs, or projects, be administered by the State's energy and water agencies. It would also provide that those activities, programs, or projects should adhere to the principle of accountability and adhere to existing State policies to promote energy efficiency, promote water conservation, promote the development and use of renewable energy resources, protect the environment, and provide green job training.

Projects eligible for funding include building and landscape retrofits; diversion or collection of stormwater for groundwater recharge; the installation, expansion, or improvement of recycled water systems for agricultural, municipal, or industrial purposes; and water and energy efficiency training for plumbers, landscape professionals, and agricultural irrigation managers.

AB 234 is supported by a host of entities, including the Association of California Water Agencies, California Landscape Contractors Association, Metropolitan Water District of Southern California, Natural Resources Defense Council, Water Replenishment District of Southern California, East Bay Municipal Utility District, San Diego County Water Authority, Eastern Municipal Water District. There is no registered opposition. This

measure is currently in the Senate Energy, Utilities, and Communications Committee awaiting a hearing date.

SB 14 (Simitian), as amended on July 14, 2009, would make numerous revisions to the Renewable Energy Resources Program and requirements under the Renewable Portfolio Standard (RPS) Program, including increasing the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 20 percent of total retail sales of electricity in the State per year by December 31, 2012, and 33 percent by December 31, 2020, and make various changes to the program.

Specifically, SB 14 would: 1) replace the 20 percent by 2010 RPS target and one percent annual procurement targets with biennial targets of 20 percent by 2012, 23 percent by 2014, 26 percent by 2016, 30 percent by 2018, and 33 percent by 2020 for "retail sellers", which include Investor-Owned Utilities (IOUs), energy service providers and community choice aggregators; 2) revise the definition of "delivery" to eliminate eligibility of energy from an out-of-state resource that is not scheduled for simultaneous consumption, as defined, by customers in California; and 3) revise out-of-state eligibility, which generally prohibits existing projects, to permit existing projects selling to a retail seller or local Publicly-Owned Utility (POU) as of May 31, 2009.

SB 14 would also: 1) provide additional assurance of recovery by IOUs of costs incurred for transmission facilities the Public Utilities Commission (PUC) finds are reasonably necessary to facilitate achievement of the RPS; 2) revise existing provisions requiring POUs to implement and enforce their own RPS programs and adds new provisions requiring CEC to establish and enforce an RPS applicable to POUs, consistent with the 33 percent target and related purposes; 3) require the CEC, in consultation with CARB, to adopt regulations for the enforcement of the RPS on POUs, including providing for the imposition of penalties by CARB pursuant to AB 32 for failure to comply with the RPS; and 4) require the PUC to adopt a minimum margin of procurement above the level necessary to comply with the RPS to mitigate the risk that renewable projects will be delayed or cancelled.

In addition, SB 14 would: 1) set aside 25 percent of the 33 percent renewable marked for IOU-owned generation by requiring the PUC to approve an application by an IOU to construct, own, and operate a renewable energy facility until IOU-owned renewable facilities equal 8.25 percent of the IOU's anticipated 2020 retail sales; 2) replace existing flexible compliance provisions with PUC authority to allow retail sellers to delay compliance with the 2012, 2014, 2016, and 2018 renewable targets for a maximum of two years if the retailer seller demonstrates inadequate transmission capacity or

unanticipated permitting and interconnection delays; and 3) revise the criteria for the market price used to gauge the reasonableness of renewable energy contracts by requiring the price methodology to reflect all current and anticipated environmental compliance costs.

Furthermore, SB 14 would: 1) repeal existing above-market funds and cost cap provisions and establishes a new and higher annual cap on above-market costs of 6 percent of an IOU's revenue requirement; 2) limit the use of undelivered Renewable Energy Credits (REC) by a retail seller or POU to 20 percent of its procurement requirements; 3) require the PUC to issue a decision on an application to construct a transmission line within 18 months under specified conditions; 4) require the Department of Fish and Game to establish an internal division to perform comprehensive planning, streamlined environmental compliance services, and ensure timely completion of Natural Community Conservation Plans related to development of renewable energy projects; and 5) appropriate \$322,000 from the PUC Utilities Reimbursement Account to the PUC for additional staffing needs for transmission lines.

The Internal Services Department manages the County's utility budget for most departments and indicates that the use of renewable resources does increase the cost of that budget. The electricity portion of the County's utilities budget is approximately \$100 million per year. However, ISD expects the increase to the utility budget due to the increasing percentage requirement for renewable power to be very small as the costs for renewable power continue to decrease. ISD acknowledges that the analysis of estimated cost increases is further complicated by the requirement of the PUC to re-do the market price reference for renewable power which limits the amount of above-market purchases utilities can make to hit these targets.

SB 14 is supported by a host of entities, including the California Public Utilities Commission, California Hydropower Reform Coalition, California State Association of Electrical Workers, California State Pipe Trades Council, City of Los Angeles Department of Water and Power, Green California; Natural Resources Defense Council, Sierra Club, and First Solar. It is opposed by a host of entities, including the California Biomass Energy Alliance; California Municipal Utilities Association; Clean Power Campaign; Alameda Municipal Power; the Cities of Alameda, Palo Alto, Roseville and Santa Clara; Independent Energy Producers Association; Pacific Gas and Electric Company; Sacramento Municipal Utility District; and Southern California Public Power Authority. This measure is currently in the Assembly Appropriations Committee awaiting a hearing date.

Transportation and Land Use

SB 406 (DeSaulnier), as amended on July 9, 2009, would create a mechanism to fund planning activities that are required under SB 375 (Steinberg), which addresses greenhouse gas emissions from the transportation sector through regional transportation plans. Specifically, SB 406 would authorize Metropolitan Planning Organizations (MPO), Councils Of Governments (COG), air quality districts in Sacramento and the Bay area, or a county transportation commission and a subregional COG jointly preparing a subregional Sustainable Communities Strategy (SCS), to impose a \$1 or \$2 surcharge on motor vehicles registered within their separate and respective jurisdictions, upon adoption of a resolution authorizing the surcharge, to develop and implement an SCS or a regional blueprint plan to identify land use strategies to reduce the use of motor vehicles and vehicle emissions.

SB 406 would also make changes to the membership and duties of the Office of Planning and Research's Planning Advisory and Assistance Council (PAAC), and would require each entity that imposes this new surcharge to give 5 percent to PAAC for the new duties related to facilitating the implementation of regional blueprint projects, such as the SCS. The PAAC would be required to work with the Strategic Growth Council to facilitate the implementation of regional blueprint projects and coordinate between regional blueprint plans and State growth and infrastructure funding plans by developing recommendations to specified State agencies.

Fees raised by SB 406 can only be used to implement an SCS or a regional blueprint plan. In cities with a population of more than 300,000 that impose the full \$2 fee, half of all revenues raised must be used to provide grants to local jurisdictions for planning and projects related to a regional blueprint plan or an SCS. Revenues received by the two air districts would be used to assist local and regional governments in reducing greenhouse gas emissions. The Department of Motor Vehicles would be required to administer the collection and distribution of the fees on behalf of each entity that approves the imposition of the new vehicle surcharge and would be reimbursed of its implementation costs.

SB 406 is sponsored by the California Association of Councils of Governments, and supported by the American Federation of State, County, and Municipal Employees; Association of Bay Area Governments; California League of Conservation Voters; San Mateo County; and Metropolitan Transportation Commission. It is opposed by the Automobile Club of Southern California; California Department of Motor Vehicles; California Taxpayers' Association; California State Automobile Association; County of Orange; Cities of Lakewood and Murrieta; League of California Cities, Orange County Division; and San Diego Association of Governments.

SB 575 (Steinberg), as amended on July 13, 2009, would provide technical clean-up to County-supported SB 375 (Steinberg) of 2008 and County-supported SB 732 (Steinberg) of 2008, which are both enabling legislation of AB 32, the California Global Warming Solutions Act of 2006. SB 375 links regional transportation and land-use planning and funding in order to reduce greenhouse gas emissions, and SB 732 establishes the Strategic Growth Council (SGC) to coordinate grants and funding to support the planning and development of sustainable communities.

Specifically, SB 575 would, among other things: 1) authorize the State Department of Housing and Community Development (HCD) to adjust the housing element deadlines for the 5th and subsequent revisions; 2) require local governments that do not adopt a housing element within 120 days of the applicable deadlines for subsequent revisions to be subject to a housing element revision cycle of not less than every four years until the local government has adopted two consecutive revisions by the statutory deadline; and 3) clarify that the deadline for completing required rezoning shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low-and very-low income households.

SB 575 would also: 1) require the MPO or regional transportation planning agency for a region that has an eight-year revision interval to notify the HCD and the State Department of Transportation (DOT) in writing of the estimated adoption date for its next Regional Transportation Plan (RTP) at least 12 months prior to the estimated adoption date; 2) clarify that the purpose for the informational meetings required to be held by a MPO in each county within the region for members of the board of supervisors and city councils on the SCS and Alternative Planning Strategy (APS) is to present a draft of the SCS and APS, including the key land use and planning assumptions; and 3) require councils of government, the HCD, and the DOT to publish on their website the relevant timelines for the RTP and housing element.

In addition, SB 575 would: 1) provide that meetings related to the development of grant guidelines and policies and the approval of grants held by the SGC shall be subject to the Bagley-Keene Open Meeting Act; 2) exempt from the provision of the Bagley-Keene Open Meeting Act a meeting at which SGC members are meeting as members of the Governor's cabinet; and 3) provide that Chapter 728 of 2008 (SB 375, Steinberg) shall be known and cited as the Sustainable Communities and Climate Change Protection Act.

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There is no registered support or opposition on SB 575. This measure is currently in the Assembly Appropriations Committee awaiting a hearing date.

We will continue to keep you advised.

WTF:RA
EW:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants